

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GERALD L. HICKAM,

Petitioner,

v.

Civ. 06-1132 JB/RLP

JAMES JANECKA, Warden, *et al.*,

Respondents.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION¹

1. This is a proceeding brought pursuant to 28 U.S.C. § 2241.² Petitioner is represented by counsel. Respondents have filed a Motion to Transfer the Petition to Colorado. For the reasons set forth below, the Motion is granted.

2. Petitioner is currently incarcerated in New Mexico, serving a life sentence for crimes committed in Colorado and for which he was sentenced to life imprisonment. See Exhibit A to Respondents' Motion [Doc. 7]. He was transferred to New Mexico pursuant to an Interstate Corrections Compact Services Application. See *id.*, Exhibit B.

3. His challenge is to a determination made by the Colorado Parole Board, which he alleges lengthens his sentence. All of the pertinent documents are in Colorado.

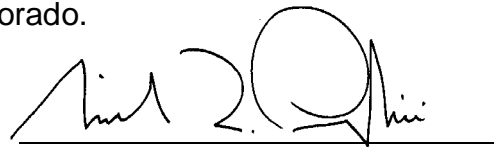
¹ Within ten (10) days after a party is served with a copy of the Magistrate Judge's Report and Recommendation that party may, pursuant to 28 U.S.C. § 636 (b)(1) , file written objections in the United States District Court to the Report and Recommendation. A party must file any objections within the ten-day period allowed if that party wants to have appellate review of the Report and Recommendation. If no objections are filed, no appellate review will be allowed.

² Although both parties refer to this action as a § 2254, because the petition is an attack on the execution of a sentence, it is a proceeding under § 2241. *Montez v. McKinna*, 208 F.3d 862, 865 (10th Cir. 2000).

4. The Court finds that Colorado would provide a more convenient forum for Petitioner's claims. See *Braden v. 30th Judicial Circuit Court*, 410 U.S. 484, 499 n.15 (1973); *Dunn v. United States Parole Comm'n*, 818 F.2d 742, 744 (10th Cir. 1987); see also *Blango v. Thornburgh*, 942 F.2d 1487, 1490 (10th Cir. 1991). The Court further notes that Petitioner has Colorado counsel in addition to New Mexico counsel and therefore is not disadvantaged by a lack of representation.

Recommended Disposition

I recommend that the Clerk of the Court be directed to transfer this proceeding to the United States District Court for the District of Colorado.

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', is written over a horizontal line.

Richard L. Puglisi
United States Magistrate Judge